

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58320 of 2022

Arising Out of PS. Case No.-163 Year-2022 Thana- RAMGARHWA District- East
Champaran

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RAJI KHAN @ MD. RAJI AHMAD Son of Late Sheikh Faijul Haque
Resident of village- Uchchi Bhatiya, P.S.- Ramgarhawa, District-East
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shambhu Sharan Sharma, Advocate

For the Opposite Party/s : Mr.Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 06-01-2023 Heard the learned counsel for the
petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Ramgarhwa P.S. Case No. 163 of 2022 for the offence registered under Sections 366A/34 of the Indian Penal Code and Section 8 of the POCSO Act, 2012.

The case of the prosecution, in brief, according to the informant, is that the daughter of the informant was kidnapped by the accused persons including the petitioner herein on 19.05.2022.

The learned counsel for the petitioner has



submitted that the petitioner is innocent, he has been falsely implicated in the present case, is having a clean antecedent and he is languishing in custody since 12.06.2022. The learned counsel for the petitioner has further submitted, by referring to the impugned order dated 22.06.2022 passed by the learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran, Motihari that the victim girl in her statement made under Section 164 Cr.P.C. has stated that she has solemnized marriage with the petitioner voluntarily and she wants to stay with her husband, however, her parents want to solemnize her marriage elsewhere. The learned counsel for the petitioner has also submitted, by referring to the aforesaid order dated 22.06.2022, that during the course of medical examination by the doctor, the age of the victim girl has been assessed as 19 years and her Aadhaar card would also show that her date of birth is 14.02.2002, meaning thereby she was a major on the date of occurrence, hence no case is made out under the provisions of the POCSO Act.



Per contra, the learned counsel for the State and the learned counsel for the informant have vehemently opposed the prayer for bail and have submitted that a certificate has been issued by the Principal of Shri Ganesh Mahavir High School, Ramgarhwa, showing the date of birth of the victim girl to be 14.02.2005.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the statement made by the victim girl under Section 164 Cr.P.C., description whereof has been given in the impugned order dated 22.06.2022, according to which the victim girl has voluntarily married with the petitioner and has also desired to stay with the petitioner, was major on the date of occurrence as per the Aadhaar card and the medical report, as aforesaid, apart from the fact that the petitioner is languishing in custody since 12.06.2022, having a clean antecedent, I deem it fit and proper to admit



the petitioner to the privilege of bail.

Accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POSCO Act, East Champaran, Motihari in connection with Ramgarhwa P.S. Case No. 163 of 2022.

(Mohit Kumar Shah, J)

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